

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Michael Taylor,)	CASE NO. 1:09 CV 1829
)	
Petitioner,)	JUDGE PATRICIA A. GAUGHAN
)	
vs.)	
)	
Maggie Bradshaw, Warden,)	<u>Order</u>
)	
Respondent.)	

This matter is before the Court upon the Interim Report and Recommendation of Magistrate Judge Limbert (Doc. 16) which recommends denial of the respondent's Motion to Dismiss. Respondent did not file objections to the Report and Recommendation.

Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts provides, "The judge must determine *de novo* any proposed finding or recommendation to which objection is made. The judge may accept, reject, or modify any proposed finding or recommendation." When no objections have been filed this Court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See* Advisory Committee Notes 1983 Addition to Federal Rule of Civil Procedure 72.

The Report and Recommendation finds that dismissal on the basis that some claims are not exhausted is not warranted given that the state court has now ruled on the relevant pending motion. This Court fully agrees with the reasoning and conclusions of the Magistrate Judge and, having found no clear error, completely adopts his factual and legal conclusions as its own and incorporates them herein by reference.

For the foregoing reasons, the Report and Recommendation is accepted and the respondent's Motion to Dismiss is denied. This matter shall continue with all further proceedings before the Magistrate Judge.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Judge

Dated: 11/8/10